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BEFORE

THE PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

DOCKET NOS. 2010-14--19-C

IN RE: )

)  
BellSouth Telecommunications, )  
Incorporated d/b/a AT&T Southeast )  
d/b/a AT&T South Carolina v. )  
Affordable Phone Services, Incorporated )  
d/b/a High Tech Communications )  
Docket No. 2010-14-C )

)  
BellSouth Telecommunications, )  
Incorporated d/b/a AT&T Southeast )  
d/b/a AT&T South Carolina v. Dialtone )  
& More Incorporated )  
Docket No. 2010-15-C )

)  
BellSouth Telecommunications, )  
Incorporated d/b/a AT&T Southeast )  
d/b/a AT&T South Carolina v. )  
Tennessee Telephone Service, LLC )  
d/b/a Freedom Communications USA, )  
LLC )  
Docket No. 2010-16-C )

RESELLERS' RESPONSE TO AT&T'S  
PETITION FOR REHEARING AND/OR  
RECONSIDERATION

)  
BellSouth Telecommunications, )  
Incorporated d/b/a AT&T Southeast )  
d/b/a AT&T South Carolina v. OneTone )  
Telecom, Incorporated )  
Docket No. 2010-17-C )

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BellSouth Telecommunications, )  
Incorporated d/b/a AT&T Southeast )  
d/b/a AT&T South Carolina v. dPi )  
Teleconnect, LLC )  
Docket No. 2010-18-C )

)  
BellSouth Telecommunications, )  
Incorporated d/b/a AT&T Southeast )  
d/b/a AT&T South Carolina v. Image )  
Access, Incorporated d/b/a New Phone )  
Docket No. 2010-19-C )

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The Resellers submit this filing in response to the “Petition for Rehearing and/or Reconsideration” (“Petition”) filed by AT&T Southeast d/b/a AT&T South Carolina (“AT&T”) on November 18, 2011. Resellers generally oppose AT&T’s Petition, but not the issuance of an order stating that AT&T’s Petition is premature.

Resellers oppose AT&T’s Petition because the method advanced by AT&T calculating the amount of cash back promotional credits due to the Resellers violates the core principle of the Telecommunications Act that wholesale should be priced *below* retail. AT&T’s violation of the law cannot be legitimized, and its method must accordingly be rejected.

However, as AT&T acknowledged in the Petition, the Commission has not yet issued a written order in these Dockets. While S.C. Code Ann. § 58-9-1200 does contain language referencing “an order or decision,” reading that statutory provision together with S.C. Code Ann. § 58-9-1160 ([a]fter the conclusion of a hearing, the commission shall make and file its findings and order with its opinion, if any. Its findings shall be in sufficient detail to enable a court on review to determine the controverted question presented by the proceeding and whether proper weight was given to the evidence.”) makes clear that a formal Order is required to trigger the time limits for the filing of any Petition for Rehearing or Reconsideration. That reading is also consistent with S.C. Code Ann. Regs 103-854, which explicitly references “an Order of the Commission” as a trigger. As such, because the Commission has issued no Order, the time limits have not yet begun to run, and AT&T’s Petition is premature.

Accordingly, whether or not one agrees with the Commission’s vote on a particular issue, no party can meaningfully discuss the Commission’s determination

without reading its analysis of the evidence and explanation of its reasoning. In the absence of an order setting forth the Commission's findings of fact and conclusions of law, the Resellers cannot file a substantive response to AT&T's Petition, nor can the Resellers make a final determination whether or not to file a petition for reconsideration or an appeal with respect to any of the findings referenced in the Directive and decided in favor of AT&T.

Until the issuance of a written order, the Resellers respectfully submit that the filing of substantive petitions concerning the agency's decision is legally ineffectual and a poor use of everyone's time and resources. The Resellers submit this filing only in order to inform the Commission that the Resellers reserve their right to respond to AT&T and intend to do so following the issuance of a written order. At that time, the Resellers may also file their own Petition for Reconsideration. Until then, the Resellers will not make any substantive filings on the issues in this docket unless requested otherwise by the Commission.

Respectfully submitted,

/s/ John J. Pringle, Jr.  
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November 28, 2011  
Columbia, South Carolina

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing has been served by electronic mail service on the following this 28<sup>th</sup> day of November, 2011:

Patrick W. Turner, Esquire  
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s/ John J. Pringle, Jr.  
John J. Pringle, Jr.